

MEMORANDUM

Agenda Item No. 4 (F)

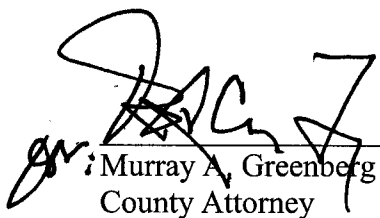
TO: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

DATE: July 6, 2006

FROM: Murray A. Greenberg
County Attorney

SUBJECT: Ordinance relating to
Miami International Airport;
to amend or modify contracts
and agreements relating to the
North Terminal Development
Project

The accompanying ordinance was prepared and placed on the agenda at the request of Commissioner Carlos A. Gimenez.


Murray A. Greenberg
County Attorney

MAG/jls



MEMORANDUM

(Revised)

TO: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

DATE: July 6, 2006

FROM: Murray A. Greenberg
County Attorney

A handwritten signature in cursive script, appearing to read "Murray A. Greenberg", is written over the printed name of the County Attorney.

SUBJECT: Agenda Item No. 4 (F)

Please note any items checked.

- _____ "4-Day Rule" ("3-Day Rule" for committees) applicable if raised
- _____ 6 weeks required between first reading and public hearing
- _____ 4 weeks notification to municipal officials required prior to public hearing
- _____ Decreases revenues or increases expenditures without balancing budget
- _____ Budget required
- _____ Statement of fiscal impact required
- _____ Bid waiver requiring County Manager's written recommendation
- _____ Ordinance creating a new board requires detailed County Manager's report for public hearing
- _____ Housekeeping item (no policy decision required)
- _____ No committee review

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 4(F)

7-6-06

ORDINANCE NO. _____

ORDINANCE RELATING TO MIAMI INTERNATIONAL AIRPORT; AUTHORIZING COUNTY MANAGER OR DESIGNEE, TO AMEND OR MODIFY CONTRACTS AND AGREEMENTS RELATING TO NORTH TERMINAL DEVELOPMENT PROJECT WITHOUT THE NEED FOR PRIOR COMMISSION APPROVAL IN AMOUNTS THAT ARE THE LESSER OF 15% OF CONTRACT AMOUNT OR \$10 MILLION DOLLARS FOR CONTRACTS UNDER \$150,000,000 AND 10% OF CONTRACT AMOUNT FOR CONTRACTS OVER \$150,000,000, AND AS OTHERWISE LIMITED HEREIN; AUTHORIZING COUNTY MANAGER OR DESIGNEE TO WAIVE BIDS UP TO \$1,000,000; AUTHORIZING TIME EXTENSIONS BEFORE AND AFTER EXPIRATION OF CONTRACT TIME; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AN EFFECTIVE DATE, AND A SUNSET PROVISION

WHEREAS, the County has enacted various ordinances applicable to the procurement of improvements, goods and services for all County departments, as well as other policies which, although not legally required, the Board has desired to follow for County procurements, such as obtaining specific authorization by the Board to advertise contracts; and

WHEREAS, this Board has enacted amendments to Countywide procurement procedures in the past so as to increase efficiencies of certain County departments, such as Section 2-17 of the Code of Miami-Dade County, Florida applicable to construction of Stage 1 of the Rapid Transit System, and Section 2-8.3(c)(2) of the Code of Miami-Dade County, Florida relating to the former Black Business Enterprise Program, permitting the Public Health Trust to become involved in goal setting procedures, resolutions adopted by this Board delegating authority to the County Manager to approve and execute contracts while the Board is not sitting,

subject to ratification by the Board; and to expedite the implementation of the Safe Neighborhood Parks Bond Program (SNP), the Quality Neighborhoods Initiative Program (QNIP), the construction of the Performing Arts Center of Greater Miami (PAC), contracts relating to any natural disaster or declaration of an emergency by the President of the United States under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended, and contracts related to all funded capital improvement construction projects specified in the Proposed Capital Budget and Multi-Year Capital Plan or unanticipated funded capital repair or rehabilitation projects authorized by resolution of the Board; and

WHEREAS, this Board has assumed a variety of contracts from American Airlines in connection with the design, construction, and installation of the North Terminal Development Project at Miami International Airport, and has further awarded various contracts for the design, construction and installation of portions of the North Terminal Development Project; and

WHEREAS, these assumed contracts need to be amended in order to conform to the requirements of Florida law and of standard County contract terms and conditions, to establish allowance accounts and to address field conditions; and

WHEREAS this Board desires to institute procedures to expedite administration of awarded and assumed contracts for the design, construction and installation of goods related to North Terminal Development Project, so as to foster greater efficiency in the contracting process, while reflecting at all times this Board's policy decisions relating to procurement practices for the County and the Board's sensitivity to small business contracting goals as expressed from time to time by the Board,

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA:

Section 1. The Code of Miami-Dade County, Florida is hereby amended by adding the following new section thereto as Section 2-285.1:¹

>>Section 2-285.1 County Manager's authority as to contracts relating to the North Terminal Development Project at Miami International Airport.

- (1) Notwithstanding and prevailing over any other provision of the Code of Miami-Dade County, Florida to the contrary, the County Manager or his designee shall have the authority with regard to any contract or agreement awarded or assumed by the Board of County Commissioners for services to be performed, facilities to be constructed, or goods to be incorporated in connection with the North Terminal Development Project at Miami International Airport, within the Board-approved budget for the North Terminal Development Project, to modify or amend any such contract, including any contract or agreement which has previously been increased in scope. The authority delegated in this section is intended to be supplemental to, and shall not limit, authority otherwise granted to the County Manager by ordinance or by administrative order. The County Manager or his designee may, within the Board-approved budget for the North Terminal Development Project: extend the contract time and waive liquidated damages for failure to comply therewith before the specified date for completion of the contract for good cause, and when the contract provides that after the expiration of the contract time the County may

¹ Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double-arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

extend the contract time or waive liquidated damages, the County Manager or his designee may do so for good cause on behalf of the County; and the County Manager or his designee may otherwise modify the contract terms, may increase or reduce in any amount the scope and compensation payable under any contract, and may grant compensable and non-compensable time extensions, all provided however, that the authority in this Subsection is subject to the following limitations:

- (a) The County Manager or his designee may issue changes or amendments to any contract or agreement relating to the North Terminal Development Project, which changes or amendments in the aggregate per contract shall not exceed (i) 15% of the value of the contract or (ii) ten million dollars (\$10,000,000) per contract whichever is lesser for contracts with an initial value of one hundred fifty million dollars (\$150,000,000) or less, and shall not exceed 10% of the value of the contract for contracts with an initial value of over one hundred fifty million dollars (\$150,000,000), such initial value amount being measured from the value of the contract at the time of award or assumption of the contract by the Board, whichever is applicable; provided however, that the foregoing limitation shall not apply to any change order or amendment related to environmental remediation or health requirements; and

- (b) Change orders or amendments executed pursuant to this Section shall require ratification by the Board; and
- (c) The County Manager or his designee must find that separately bidding the work, goods or services that are the subject matter of the contract change or amendment is not practical because (i) the change to the work is an integral part of the previously awarded work; or (ii) the change to the work is essential to the completion of the previously awarded work; or (iii) the change to the work is ancillary to the awarded work; and
- (d) Competitive bids for contracts and purchases under this section shall be required only when the transaction is in an amount exceeding one million dollars (\$1,000,000). Nothing in this section shall affect the requirements of State law for the competitive purchase of goods and services, including those related to public construction work and those contained in the Consultants Competitive Negotiation Act.
- (e) Nothing in this section shall affect the process for settlement of construction disputes relating to the North Terminal Development approved by separate resolution of the Board.<<

Section 2. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 3. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any Sunset provision, shall become and

be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or re-lettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate work.

Section 4. This ordinance shall become effective 10 days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board. This ordinance shall apply to contracts and professional service agreements advertised after its effective date.

Section 5. This ordinance shall sunset upon the earlier of May 1, 2010, or upon the substantial completion of all components of Phase I of the North Terminal Development Project.

PASSED AND ADOPTED:

Approved by County Attorney as
to form and legal sufficiency:

Prepared by:

Deborah Mastin/Hugo Benitez

Sponsored by Commissioner Carlos A. Gimenez

